

Remarks/Arguments

In the non-final Office Action dated September 18, 2008, it is noted that claims 1-21 are pending, that claims 1-4, 6-9, and 11-19 stand rejected under 35 U.S.C. §103, that objection has been raised with respect to claims 5 and 10, and that claims 20 and 21 have been allowed.

Independent claims 1, 5, and 18 have been amended to include a limitation from claim 5. Claim 6 has been cancelled. Claims 14 and 16 have been amended to make an editorial change by deleting a redundancy therein. No new matter has been added.

By this response, entry of this amendment, reconsideration of the application, and allowance of the claims are respectfully requested.

Allowable Subject Matter

Claims 5 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Applicants' representative thanks the Examiner for identifying allowable subject matter in this application.

In view of the remarks below, it is believed that these claims are allowable without revision into an independent form and that the objection should be withdrawn. Applicants' representative expressly reserves the right to amend these claims into independent form as determined prior to the entry of this amendment, if and when it is deemed appropriate.

Cited Art

The references cited and applied against the claims are listed as follows: U.S. Patent 6,667,954 to Boduch et al. (hereinafter referenced as "Boduch"), U.S. Patent 6,246,681 to Humphrey et al. (hereinafter referenced as "Humphrey") and U.S. Patent 6,320,860 to Hurlocker (hereinafter referenced as "Hurlocker").

Rejection of Claims 1-4, 6-9, 17, and 18 under 35 U.S.C. §103

Claims 1-4, 7-9, 17, and 18 stand rejected under 35 U.S.C. §103 as being unpatentable over Boduch in view of Humphrey. Claim 6 has been cancelled. This rejection is respectfully traversed.

Claim 1 is an apparatus claim from which claims 2-4, 6-9, and 17 depend, either directly or indirectly. Claim 18 is an apparatus claim. Claim 18 includes limitations similar in nature to those presented in claim 1. Accordingly, the remarks below will be made with respect to claim 1 and will be understood to apply also to claim 18 without requiring a full repetition of those remarks.

Amended claim 1 calls, in part, for "switching from said selected one of said first and second sets of M parity encoded output digital audio data streams to an unselected one of said first and second sets of M parity encoded output digital audio data streams based upon detecting a parity error in said selected one of said first and second sets of M parity encoded output digital audio data streams regardless of whether a parity error is present in said unselected one of said first and second sets of M parity encoded output digital audio data streams."

Boduch fails to teach the switching operation defined in claim 1. Particularly, Boduch fails to teach the switching from a selected stream to an unselected stream "regardless of whether a parity error is present in said unselected one of said first and second sets of M parity encoded output digital audio data streams." *See explanation of this limitation in Office Action dated April 1, 2008 at page 21, section 4.*

On page 10 of the present Office Action, the rejection of the claims appears to rely, at least in some part, on a reference that has not been properly cited as the basis for the rejection. No mention is made to *Newton's Telecom Dictionary* in making the present rejection under 35 U.S.C. §103. Yet the reference appears to be central to establishing a facet of the rejection. It is believed that this reference is improperly introduced for the purpose of the rejection and cannot be used to establish the grounds for rejection until it is properly introduced.

Humphrey was added to Boduch because Boduch failed to teach parity encoded streams as defined in claim 1. *See Office Action at page 9.* It should be noted that the parity circuits of Humphrey are not used in any selection of the data streams. The data streams such as "egress 'A'" and "egress 'B'" in Figure 2 of Humphrey are inputs to redundant path combiner 82. It is redundant path

combiner 82 that selects between the two egress streams to output just a single stream. *See Humphrey at col. 7, lines 38-54.* The parity circuits are not used in this selection process since they appear in a succeeding element to the RPC 82, namely, data formatter 84. *See Humphrey in Figures 2 and 4 and at col. 7, line 62 et seq. and col. 10, line 61 et seq.* Data formatter 84 receives the already selected stream from redundant path combiner 82. Thus, the parity circuits in data formatter 84 of Humphrey play no role in the selection performed by the redundant path combiner 82.

Humphrey also does nothing to cure the defect in Boduch concerning switching from a selected stream to an unselected stream "regardless of whether a parity error is present in said unselected one of said first and second sets of M parity encoded output digital audio data streams." *See explanation of this limitation in Office Action dated April 1, 2008 at page 21, section 4.*

Accordingly, it should be understood that Boduch and Humphrey fail to teach, show, or suggest the specific limitations defined in claim 1. It is therefore submitted that Boduch and Humphrey fail to teach all the elements of independent claims 1 and 18. Because the dependent claims include all the limitations of their respective independent base claims, it is further submitted that Boduch and Humphrey fail to teach all the elements of dependent claims 2-4, 7-9, and 17.

In light of the remarks above, it is submitted that the present claims would not have been obvious to a person of ordinary skill in the art upon a reading of Boduch and Humphrey. Thus, it is submitted that claims 1-4, 7-9, 17, and 18 are allowable under 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

Rejection of Claims 11-16 and 19 under 35 U.S.C. §103

Claims 11-16 and 19 stand rejected under 35 U.S.C. §103 as being unpatentable over Boduch in view of Humphrey and further in view of Hurlocker. This rejection is respectfully traversed.

Claim 11 is a method claim from which claims 12-16 depend, either directly or indirectly. Claim 19 is also a method claim that includes limitations similar in nature to those presented in claim 11. The remarks below will be made with respect to claim 11 and will be understood to apply also to claim 19 without requiring a full repetition of those remarks.

Hurlocker was apparently added to the combination of Humphrey and Boduch to provide a teaching about adding error counts to the management cell. See present *Office Action at page 16*. Hurlocker discusses the addition of the ten millisecond running average of the path BIP error count to the ring segment BIP count in an incoming segment OAM cell. The result of the addition is then used as the new ring segment BIP count for insertion in the outgoing ring segment OAM cell. In this regard, Hurlocker was operating with a cell structure that was defined to include a space allocation for inclusion of such count bits. See *Hurlocker at col. 2, lines 49-56*.

Boduch does not teach, show, or suggest the inclusion of counts in his bit streams. While Boduch appears to generate error counts in the processing of the data streams, Boduch neither adds nor shows any desire or ability to add the error counts to any data stream. Moreover, Boduch does not present a structure in his data stream which would even remotely suggest that such error counts could be added to the data stream. Boduch does not even offer a suggestion that, if there were room in the data stream, he would like to add such error counts to the data stream. Without a suggestion of any kind in this regard by Boduch, it can only be surmised that Boduch provides no motivation for adding error counts to his data streams. Thus, any combination of Hurlocker with Boduch is improper for lacking sufficient motivation therefor.

Hurlocker does not suggest the addition of error counts to each copy of an incoming data stream. Hurlocker merely updates the error count in a single output data stream. If the combination of Hurlocker, Boduch, and Humphrey, in this regard, were to be deemed proper, a position with which Applicants neither acquiesce nor agree, the combined references would only insert error counts in the single output 113 selected by ASIC 110 of Boduch. As a result, the combined references would not teach, show, or suggest at least the limitations found in claim 11 concerning "each one of said at least one component of said second router matrix card adding at least one bit of information to said second set of M output digital audio data streams propagating therethrough".

From these remarks, it should be understood that Boduch, Humphrey, and Hurlocker fail to teach, show, or suggest all the limitations defined in claim 11. It is therefore submitted that Boduch, Humphrey, and Hurlocker fail to teach all the elements of independent claims 11 and 19. Because the dependent claims include

all the limitations of their respective independent base claims, it is further submitted that Boduch, Humphrey, and Hurlocker fail to teach all the elements of dependent claims 12-16. Accordingly, it is submitted that the present claims would not have been obvious to a person of ordinary skill in the art upon a reading of Boduch, Humphrey, and Hurlocker, either separately or in combination. Thus, it is believed that claims 11-16 and 19 are allowable under 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance. Entry of this amendment, reconsideration of the application, and allowance of all the claims are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner contact the Applicants' attorney at (609) 734-6817, so that a mutually convenient date and time for a telephonic interview may be scheduled for resolving such issues as expeditiously as possible.

In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 07-0832.

Respectfully submitted,
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